

NON-FEDERAL

PERMIT  
ACT/007/020

July 14, 1999

STATE OF UTAH  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING  
1594 West North Temple  
Suite 1210  
Box 145801  
Salt Lake City, Utah 84114-5801

This permit, ACT/007/020, is issued for the State of Utah by the Utah Division of Oil, Gas and Mining (Division) to:

Lodestar Energy, Inc.  
333 West Vine Street, Suite 1700  
Lexington, Kentucky 40507-1628  
(606) 255-4006

for the Horizon No. 1 Mine. A Performance Bond is filed with the Division in the amount of \$711,000.00, payable to the State of Utah, Division of Oil, Gas and Mining.

**Sec. 1**      **STATUTES AND REGULATIONS** - This permit is issued pursuant to the Utah Coal Mining and Reclamation Act of 1979, Utah Code Annotated (UCA) 40-10-1 et seq, hereafter referred to as the Act.

**Sec. 2**      **PERMIT AREA** - The permittee is authorized to conduct underground coal mining activities on the following described lands within the permit area at the Horizon Mine situated in the State of Utah, Carbon County, and located in:

**Township 13 South, Range 8 East, SLM**

**Section 8:**      SE1/4SW1/4, SW1/4NW1/4SW1/4SE1/4,  
W1/2SW1/4SW1/4SE1/4

**Section 17:**    NW1/4NE1/4, S1/2NW1/4, N1/2NW1/4SW1/4,  
NE1/4SW1/4, NW1/4SE1/4, N1/2SE1/4SW1/4,  
N1/2SW1/4SE1/4, W1/2W1/2SW1/4NE1/4

This legal description is for the permit area of the Horizon Mine, including the coal right of way, for a total of 317.5 acres. The permittee is authorized to conduct underground coal mining activities and related surface activities on the foregoing described property subject to the conditions of all applicable conditions, laws and regulations.

- Sec. 3**      **COMPLIANCE** - The permittee will comply with the terms and conditions of the permit, all applicable performance standards and requirements of the State Program.
- Sec. 4**      **PERMIT TERM** - This permit becomes effective on July 14, 1999 and expires on October 11, 2001.
- Sec. 5**      **ASSIGNMENT OF PERMIT RIGHTS** - The permit rights may not be transferred, assigned or sold without the prior written approval of the Division Director. Transfer, assignment or sale of permit rights must be done in accordance with applicable regulations, including but not limited to 30 CFR 740.13{e} and R645-303-300.
- Sec. 6**      **RIGHT OF ENTRY** - The permittee shall allow the authorized representative of the Division, including but not limited to inspectors, and representatives of the Office of Surface Mining Reclamation and Enforcement (OSM), without advance notice or a search warrant, upon presentation of appropriate credentials and without delay to:
- (a)      have the rights of entry provided for in 30 CFR 840.12, R645-400-220, 30 CFR 842.13 and R645-400-110;
  - (b)      be accompanied by private persons for the purpose of conducting an inspection in accordance with R645-400-100 and R645-400-200 when the inspection is in response to an alleged violation reported to the Division by a private person.
- Sec. 7**      **SCOPE OF OPERATIONS** - The permittee shall conduct underground coal mining activities only on those lands specifically designated as within the permit area on the maps submitted in the approved plan and approved for the term of the permit and which are subject to the performance bond.
- Sec. 8**      **ENVIRONMENTAL IMPACTS** - The permittee shall take all possible steps to minimize any adverse impact to the environment or public health and safety resulting from noncompliance with any term or condition of the permit, including, but not limited to:
- (a)      Any accelerated or additional monitoring necessary to determine the nature of noncompliance and the results of the noncompliance;

- (b) Immediate implementation of measures necessary to comply; and
- (c) Warning, as soon as possible after learning of such noncompliance, any person whose health and safety is in imminent danger due to the noncompliance.

**Sec. 9 DISPOSAL OF POLLUTANTS** - The permittee shall dispose of solids, sludge, filter backwash or pollutants in the course of treatment or control of waters or emissions to the air in the manner required by the approved Utah State Program and the Federal Lands Program which prevents violation of any applicable state or federal law.

**Sec. 10 CONDUCT OF OPERATIONS** - The permittee shall conduct its operations:

- (a) In accordance with the terms of the permit to prevent significant, imminent environmental harm to the health and safety of the public; and
- (b) Utilizing methods specified as conditions of the permit by the Division in approving alternative methods of compliance with the performance standards of the Act, the approved Utah State Program and the Federal Lands Program.

**Sec. 11 EXISTING STRUCTURES** - As applicable, the permittee will comply with R645-301 and R645-302 for compliance, modification, or abandonment of existing structures.

**Sec. 12 RECLAMATION FEE PAYMENTS** - The operator shall pay all reclamation fees required by 30 CFR Part 870 for coal produced under the permit, for sale, transfer or use.

**Sec. 13 AUTHORIZED AGENT** - The permittee shall provide the names, addresses and telephone numbers of persons responsible for operations under the permit to whom notices and orders are to be delivered.

**Sec. 14 COMPLIANCE WITH OTHER LAWS** - The permittee shall comply with the provisions of the Water Pollution Control Act (33 USC 1151 et seq.), and the Clean Air Act (42 USC 7401 et seq.), UCA 26-11-1 et seq., and UCA 26-13-1 et seq.

- Sec. 15 PERMIT RENEWAL** - Upon expiration, this permit may be renewed for areas with the boundaries of the existing permit in accordance with the Act, the approved Utah State Program and the Federal Lands Program.
- Sec. 16 CULTURAL RESOURCES** - If, during the course of mining operations, previously unidentified cultural resources are discovered, the permittee shall ensure that the site(s) is not disturbed and shall notify the Division. The Division, after coordination with OSM, shall inform the permittee of necessary actions required. The permittee shall implement the mitigation measures required by Division within the time frame specified by Division.
- Sec. 17 APPEALS** - The permittee shall have the right to appeal as provided for under R645-300-200.
- Sec. 18 SPECIAL CONDITIONS** - The permittee shall comply with the special conditions in Attachment A.

The above conditions (Secs. 1-18) are also imposed upon the permittee's agents and employees. The failure or refusal of any of these persons to comply with these conditions shall be deemed a failure of the permittee to comply with the terms of this permit and the lease. The permittee shall require his agents, contractors and subcontractors involved in activities concerning this permit to include these conditions in the contracts between and among them. These conditions may be revised or amended, in writing, by the mutual consent of the Division and the permittee at any time to adjust to changed conditions or to correct an oversight. The Division may amend these conditions at any time without the consent of the permittee in order to make them consistent with any federal or state statutes and any regulations.

THE STATE OF UTAH

By: *Paul J. Smith, Associate Director, Mining*

Date: *July 14, 1999*

I certify that I have read, understand and accept the requirements of this permit and any special conditions attached.

PERMITTEE (Authorized Representative)

By: *R. E. Hulley*

Date: *7/14/99*

**Attachment A**

**Conditions**

- Condition #1 - Lodestar Energy, Inc. must assume responsibility for and comply with all of the conditions and orders of the Division that have not been completed by Horizon Mining, LLC. Lodestar Energy, Inc. must adequately address Division Order ACT/007/020-99B and midterm review requirements as currently specified and in accordance with their respective timeframes.
- Condition #2 - Lodestar Energy, Inc. must obtain requisite approvals and permits prior to the removal of any leased federal coal from Federal Coal Lease U-74308.

**STATE OF UTAH  
DIVISION OF OIL, GAS AND MINING**

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**PERMITTEE**

Horizon Mine  
Horizon Mining, LLC  
c/o Snell & Wilmer  
111 East Broadway, Suite 900  
SLC, Utah 84111

**ORDER & FINDINGS  
OF  
PERMIT DEFICIENCY**

**PERMIT NUMBER ACT/007/020  
DIVISION ORDER # 99B**

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**PURSUANT to R645-303-212, the DIVISION ORDERS the PERMITTEE, Horizon Mining, LLC, to make the requisite permit changes enumerated in the findings of Permit Deficiency in order to be in compliance with the State Coal Program. These findings are to be remedied in accordance with R645-303-220.**

**FINDINGS OF PERMIT DEFICIENCY**

**A review of the current Mining and Reclamation Plan and field investigations have revealed permit deficiencies. In summary, the Division finds under:**

**R645-301-500. Information in the plan is not current, nor clear and concise. In order for the mine to be in compliance, Horizon Mining must provide maps and text that are consistent and that correlate throughout the plan.**

**ORDER**

**Horizon Mining, LLC is ordered to make the requisite permit or Mining and Reclamation Plan (MRP) changes:**

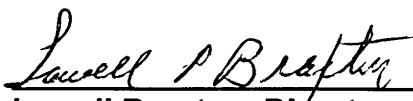
**1.a. Update the text of the operation plan of the current MRP to accurately describe the coal conveyance system, separation facilities, coal storage areas, coal mine waste handling and storage facilities area, other materials handling and storage areas, snow storage areas and all haulage areas; and to clearly show on a map all of the preceding in accordance with R645-301-500.**

- 1.b. Update the text and maps to show the reclamation plans for each of the preceding items if different than the current reclamation plan, or if the current plan does not include the preceding items in 1.a. in accordance with R645-301-500.
2. If coal mine waste is to be produced at the Horizon Mine, state the location and volume of temporary and final storage of coal mine waste at the Horizon Mine in accordance with R645-301-500.
3. Amend the text of Chapter 3 of the Horizon MRP, Section 3.3, p. 3-6 and 3-7, to clarify Horizon Mining's current MRP designations of "coal", "rocky coal", "high ash coal", "waste rock" and "coal waste materials" as to how they fall under Utah Coal Mining Rules R645 et seq of "coal", "coal mine waste", "underground development waste", or "coal processing waste". Horizon Mining must further clarify its criteria for underground development waste, specifically referencing a) Mine Safety and Health Administration (MSHA) standards regarding storage of underground development waste in the Horizon Mine workings prior to bringing the waste to the surface, and b) ASTM standards distinguishing high ash coal from underground development waste.
4. Demonstrate that plans provided in response to Items 1 and 2 of this Order are in compliance with Horizon Mine's Utah Air Quality Permit.

Time to comply with Order:

Horizon Mining, LLC is ordered to submit a complete and adequate application for permit change to address the above ordered items, numbers 1- 4, by June 4, 1999.

Ordered this 12<sup>th</sup> day of May, 1999, by the Utah Division of Oil, Gas, and Mining.

  
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Lowell Braxton, Director  
Division of Oil, Gas and Mining



State of Utah  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt  
Governor

Kathleen Clarke  
Executive Director

Lowell P. Braxton  
Division Director

1594 West North Temple, Suite 1210

PO Box 145801

Salt Lake City, Utah 84114-5801

801-538-5340

801-359-3940 (Fax)

801-538-7223 (TDD)

July 7, 1999

Denise Dragoo, Resident Agent  
Horizon Mining, LLC  
c/o Snell & Wilmer  
111 East Broadway, Suite 900  
Salt Lake City, Utah 84111

Re: Extension of Midterm Permit Review, Horizon Mining, LLC, Horizon Mine,  
ACT/007/020-MT99, Folder #3, Carbon County, Utah

Dear Ms. Dragoo:

The Division received a request from Vicky Miller (EarthFax) to extend the time for responding to the Midterm review at the Horizon Mine. The request is hereby granted and you now have until August 2, 1999 to comply with the Midterm Review requirements. This extension, does not extend or alter the time frames for completing items associated with Division Orders 99B (coal mine waste) or 99C (bond) which have their own schedule for completion.

We are interested in getting these issues resolved and encourage you to expend every effort in achieving compliance. Please call if you have any questions.

Sincerely,

Daron R. Haddock  
Permit Supervisor

tm

cc: Vicky Miller  
Price Field Office

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State of Utah  
DEPARTMENT OF NATURAL RESOURCES  
DIVISION OF OIL, GAS AND MINING

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Salt Lake City, Utah 84114-5801

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801-538-7223 (TDD)

April 27, 1999

Denise Dragoo, Resident Agent  
Horizon Mining, LLC  
c/o Snell & Wilmer  
111 East Broadway, Suite 900  
Salt Lake City, Utah 84111

Re: Results of Midterm Permit Review, Horizon Mining, LLC, Horizon Mine, ACT/007/020-MT99,  
Folder #3, Carbon County, Utah

Dear Ms. Dragoo:

The Division has conducted a Midterm Permit review of the Horizon Mine as indicated in our March 23, 1999 letter to you. The results of the Midterm review are discussed in the enclosed Technical Analysis and Findings document. You will note that a number of the findings indicate deficiencies in the plan and in the operation of the mine. In order to achieve compliance these deficiencies will need to be corrected. For those items that are associated with enforcement actions you will need to follow the prescribed abatement procedures and dates. For the remaining items, please provide the needed corrections as quickly as possible but no later than June 28, 1999.

You should also note that the Division has calculated a revised bond amount based on the information available. We have determined that the bond at the Horizon mine should be adjusted to \$1,081,000. We have enclosed a blank reclamation agreement which you will need to complete in order to bring your bond documents up to date. You will need to provide the additional bond and reclamation agreement by the June 28th date as well. If desired, you may request an informal conference on the bond adjustment pursuant to R645-301-830.422. Please call if you have any questions.

Sincerely,

Daron R. Haddock  
Permit Supervisor

tam  
enclosures

cc: Frontier Insurance Company w/o  
Mary Ann Wright w/o  
Joe Helfrich w/o  
Price Field Office ta only  
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State of Utah  
Division of Oil, Gas and Mining  
Utah Coal Regulatory Program



Technical Analysis and Findings for Midterm Review  
Horizon Mine  
ACT/007/020  
April 23, 1999

## **MIDTERM PERMIT REVIEW**

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# **ADMINISTRATIVE FINDINGS**

## **PERMIT APPLICATION FORMAT AND CONTENT**

Regulatory Reference: R645-301-120

### **Analysis:**

During the technical site visit it became apparent that the current site configuration does not match with many of the maps or plans in the Approved Mining and Reclamation Plan. Maps contain conflicting information. For example the map depicting the Surface facilities shows a different haul road alignment than the Haul road design map. It also shows a different disturbed area boundary than many of the other maps. The Surface facilities map also shows certain facilities that are not located as they are depicted(i.e., shop, fuel tanks, crusher). The drainage maps show a different surface configuration than the surface facilities map. In order for the mine to be in compliance, it must provide maps and text that are consistent and that correlate throughout the plan.

### **Findings:**

The midterm review has identified that the plan does not meet the requirements of this section. The permittee must provide the following in accordance with:

**R645-301-121**, Information in the plan that is current, clear and concise. In order for the mine to be in compliance, it must provide maps and text that are consistent and that correlate throughout the plan.

## **PERMIT CONDITIONS**

Regulatory Reference: R645-300-140

### **Analysis:**

Each permit issued by the Division will be subject to the following conditions:

- The permittee will conduct coal mining and reclamation operations only on those lands that are specifically designated as the permit area on the maps submitted with the application and authorized for the term of the permit and that are subject to the performance bond or other equivalent guarantee in effect pursuant to R645-301-800.

## **MIDTERM PERMIT REVIEW**

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### **Findings:**

The midterm review has identified that the plan does not meet the requirements of this section. The permittee must provide the following in accordance with:

**R645-301-322**, a report to be included in the plan, produced by the persons or organization which conducted the macro invertebrate and fish study conducted in 1997.

## **OPERATION PLAN**

### **TOPSOIL AND SUBSOIL**

Regulatory Reference: 30 CFR Sec. 817.22; R645-301-230.

### **Analysis:**

The Midterm Permit Review covers the following operational considerations for soil salvage and protection of the soil resource:

- Soil Salvage Updates

#### **Soil Salvage Updates**

A "Topsoil Stockpile Table" is included in Appendix 8-1 showing results for topsoil recovery and placement during 1996 and 1997. The current surveyed volume of soil in the stockpile is shown as 10,494 cy. Temporary stockpiles for both riparian and non-riparian soil are shown as 156 cy and 124 cy, respectively. Total salvaged soil is therefore 10,774 cy. With in-place soils in Areas 10 and 11, the volume of soil available for reclamation is 14,507 cy.

Plate A, Appendix 8-1, shows soil distribution within the disturbance area. These are correlated with the Table in Appendix 8-1 for topsoil recovery and placement as follows:

## **MIDTERM PERMIT REVIEW**

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**R645-301-120, R645-301-130, R645-301-150 and R645-301-230,** The following inconsistencies are made in context with information presented in the plan and observations made in the field on April 20, 1999:

- Appendix 8-1, Plate A, needs to show and delineate the main Topsoil Stockpile.
- Appendix 8-1, Topsoil Stockpile Table, shows surveyed quantity of soil in the main Topsoil Stockpile as 10,993 cubic yards. The Mine Reclamation Plan (MRP) needs to be updated showing past surveys so that the Division can verify the surveyed quantity of Topsoil in the pile. The surveyed pile Information, both current and original, should include, but not be limited to, the following:
  - (1) Surveyed Pile specifics, dimensions
  - (2) Pile illustration showing surveyed pile configuration, and
  - (3) Pile cross sections.
- Appendix 8-1, Plate A, shows the temporary Riparian Topsoil stockpile on Area "E". On the ground, the temporary Riparian Topsoil stockpile has been relocated from Area "E" to the main Topsoil Stockpile. Plate A needs to be updated to show the current location of the Riparian Topsoil stockpile.
- Appendix 8-1, Plate B, shows areas that will require Topsoil during reclamation. On the ground, the northern temporary fan portal area, the temporary fan portal access road, and the northern refuse slope adjacent and above the main topsoil stockpile have been reclaimed. The following are needed:
  - (1) Update the all relevant MRP text, tables and maps, including Appendix 8-1.
  - (2) Dates that reclamation took place and who performed the reclamation.
  - (3) Identify the soil source, location, volumes and characterization of the soil resource used for reclamation.

## **MIDTERM PERMIT REVIEW**

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### **VEGETATION**

Regulatory Reference: R645-301-330, -301-331, -301-332.

#### **Analysis:**

The Operator had conducted interim site stabilization with vegetation in several areas above the facilities area and below the sediment pond. No noxious weeds were observed in the interim vegetation. Gordon Creek is known to have infestations of Musk thistle and the Operator should be observant not to let this species establish.

#### **Findings:**

Information found in the plan and on site relevant to this midterm review meet the minimum regulatory requirements of this section.

### **HYDROLOGIC ANALYSES:**

#### **Does the Plan Meet Permit Terms and Conditions?**

The permit has no attached stipulations. Conditions relating to hydrology under Sec. 14 states the permittee shall comply with the provisions for the Water Pollution Control Act (33 USC 1151 et seq.)

#### **Water Quality Standards and Effluent Limitations.**

The permittee provided a copy of the UPDES permit for the Horizon Coal Corporation in appendix 3-6. The permit is expired at midnight on April 30, 1998. The permit number UTG040019 is authorized for discharge at outfall 001, latitude 39°41'37" and longitude 111°02'58", to the North Fork of Gordon Creek.

The plan states excess underground water encountered is settled in underground sumps and discharges will be monitored to ensure that effluent limitations are met. Any such discharges will be monitored in accordance with the UPDES permit (Sections 3.4.3 and 3.4.3.2). The permit, currently allows only one discharge point from the sedimentation pond. The permittee has attempted to obtain an additional mine water discharge point. The total amount of TDS discharged from all mine water and decant operations is limited to one ton per day. To date, the applicant has not obtained a mine water discharge UPDES permit.

Conditions relating to hydrology under Sec. 10 states the permittee shall conduct operations in accordance with the terms of the permit. Based on the discussion presented below,

## **MIDTERM PERMIT REVIEW**

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The straw bales in the disturbed area below the sedimentation pond need to be replaced as vegetation is not adequate to control erosion at this time. No visible signs of precipitation or sediment moving from this area were noted.

### **Findings:**

The operations are not considered adequate to meet the requirements identified for the midterm. The permittee must provide the following in accordance with:

**R645-300-142.** "The permittee will conduct all coal mining and reclamation operations only as described in the approved application."

## **RECLAMATION PLAN**

### **REVEGETATION**

Regulatory Reference: 30 CFR Sec. 785.18, 817.111, 817.113, 817.114, 817.116;  
R645-301-244, -301-353, -301-354, -301-355, -301-356, -302-280, -302-281, -302-282,  
-302-283, -302-284.

### **Analysis:**

#### **General Requirements**

No reclamation or permanent revegetation has been conducted on site.

### **Findings:**

Information found in the plan and on site relevant to this midterm review meet the minimum regulatory requirements of this section.

## **BONDING AND INSURANCE REQUIREMENTS**

Regulatory Reference: R645-301-800, et seq.

## **MIDTERM PERMIT REVIEW**

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### **Findings:**

Information provided in the proposed amendment is not considered adequate to meet the requirements of this section. Prior to approval, the Permittee must provide the following in accordance with:

**R645-301-820,** The Applicant will file with the Division, on a form prescribed and furnished by the Division, a bond for performance made payable to the Division and conditioned upon the faithful performance of all of the requirements of the state Program, the permit and the reclamation plan.

The applicant should refile the entire Reclamation Agreement (attached) to update all portions of the Agreement and the signature of the signing authority for Horizon Mining, LLC must be accompanied by minutes of the Board meeting and/or corporate resolution or bylaws that reflect he has the authority to sign surety bonds for Horizon Mining, LLC.

**R645-301-830,** The Permittee must provide the Division with a detailed reclamation cost estimate for the Horizon Mine. The detailed reclamation cost estimate must include:

Detailed earthwork calculations that include haul distances, grades travel times, and material volumes. In addition the Permittee must include a detailed reclamation plan that lists the timing and sequence of all major earthwork activities. (The Permittee should refer to the OSM reclamation handbook for details or consult the Division.)

Detailed demolition cost calculations that include the type of structures and the disposal costs. The detailed demolition costs must include the type of material used to construct the structure, all concrete associated with the structure (such as floors, footers and foundations) and the disposal costs. The disposal costs must include the dump fee and haulage costs.

The Permittee must also include the disposal costs for the maximum amount of coal mine waste, and high ash coal that will be stored on site. The disposal costs must include haulage costs and dump fees.

**R645-301-840,** The Permittee must increase the reclamation bond amount from \$209,195.31 to \$1,081,000.